IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8516 OF 2005

The State of Maharashtra, Applicant
Vs
Jalindar Rangrao Patil, Respondent.

Mr P.A.Pol, APP for the applicant.
None for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 19th JUNE, 2006

P.C.:

1. Heard the learned APP for the applicant. None appears for the respondent.

2. This is an application under section 378(4) of the Criminal Procedure Code seeking leave to appeal against the judgment and order dated 13.9.2005 by which the learned Addl.Sessions Judge, Islampur allowed the appeal and set aside the conviction of the respondent-accused for the offence punishable under section 354 of IPC. The incident of outraging modesty of the complainant occurred on 20.1.2001 at 3.30 pm in the cattle-shed at village Savarde. The prosecution has examined the complainant, her husband, her mother-in-law, besides the evidence of other witnesses, to bring home the guilt of the accused. The appeal Court, on appreciation of the evidence, has held that the delay in filing the FIR had not been

explained by the prosecution properly. The learned A.P.P submitted that the complainant waited till her husband, who was out of station at the relevant time, to arrive and then she filed the complaint and that the said explanation for delay is plausible and natural. There is absolutely nothing on record to support the claim of the complainant that her husband was out of station at the relevant time. Similarly no independent witness, though the scene of offence was surrounded by many houses, has been examined by the prosecution. It has come in the cross-examination of the complainant that her cousin, father-in-laws, namely Shamrao, Shankar, Gunda, Sarjerao, her close relatives, were residing in the same vicinity but none of them has been examined by the prosecution. It also reveals from the cross-examination that there was enmity between the two families, viz. complainant and the accused over the boundaries of the land and some dispute was pending between them. Considering the reasons recorded by the Court below, on appreciation of the evidence on record. the impugned judgment, in my opinion, cannot be said to be unreasonable and perverse. The view taken by the trial Court is reasonably possible view. No case for granting leave under section 378(4) of Cr.P.C. has been made out. The application is, therefore, rejected.

(D.B.BHOSALE,J.)